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any treatment facilities and infrastructure, for as long as the treatment and facilities are needed after mine closure. The BLM may identify the need for a trust fund or other funding mechanism during plan review or later.

(b) In determining whether a trust fund will be required, the BLM will consider the following factors:

(1) The anticipated post-mining obligations (PMO) that are identified in the environmental document or approved POD;

(2) Whether there is a reasonable degree of certainty that the treatment will be required based on accepted scientific evidence or models;

(3) The determination that the financial responsibility for those obligations rests with the operator; and

(4) Whether it is feasible, practical, or desirable to require separate or expanded reclamation bonds for those anticipated long-term PMOs.

Subpart 3905—Lease Exchanges

§ 3905.10 Oil shale lease exchanges.

To facilitate the recovery of oil shale, the BLM may consider land exchanges where appropriate and feasible to consolidate land ownership and mineral interest into manageable areas. Exchanges are covered under part 2200 of this chapter.

PART 3910—OIL SHALE EXPLORATION LICENSES

Subpart 3910—Exploration Licenses

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43 CFR Ch. II (10–1–11 Edition)

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Subpart 3910—Exploration Licenses

§ 3910.21 Lands subject to exploration.

The BLM may issue oil shale exploration licenses for all Federal lands subject to leasing under § 3900.10 of this chapter, except lands that are in an existing oil shale lease or in preference right leasing areas under the R, D and D program. The BLM may issue exploration licenses for lands in preference right lease areas only to the R, D and D lessee.

§ 3910.22 Lands managed by agencies other than the BLM.

(a) The consent and consultation procedures required by § 3900.61 of this chapter also apply to exploration license applications.

(b) If exploration activities could affect the adjacent lands under the surface management of a Federal agency other than the BLM, the BLM will consult with that agency before issuing an exploration license.

§ 3910.23 Requirements for conducting exploration activities.

Exploration activities on Federal lands require an exploration license or oil shale lease. Activities on a license or lease without an approved plan of operation must be conducted pursuant to an approved exploration plan under § 3931.40 of this chapter. The licensee may not remove any oil shale for sale, but may remove a reasonable amount of oil shale for analysis and study.

§ 3910.31 Filing of an application for an exploration license.

(a) Applications for exploration licenses must be submitted to the proper BLM office.

(b) No specific form is required. Applications must include:

(1) The name and address of the applicant(s);

(2) The filing fee for an exploration license application found in the fee schedule in § 3000.12 of this chapter;

(3) A description of the lands covered by the application according to section, township and range in accordance

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with the public lands survey system or, if the lands are unsurveyed lands, the legal description by metes and bounds; and

(4) An acceptable electronic format or 3 paper copies of an exploration plan that complies with the requirements of § 3931.41 of this chapter. Contact the proper BLM office for detailed information on submitting copies electronically.

(c) An exploration license application may cover no more than 25,000 acres in a reasonably compact area and entirely within one state. An application for an exploration license covering more than 25,000 acres must include justification for an exception to the normal acreage limitation.

(d) Applicants for exploration licenses are required to invite other parties to participate in exploration under the license on a pro rata cost share basis.

(e) Using information supplied by the applicant, the BLM will prepare a notice of invitation and post the notice in the proper BLM office for 30 calendar days. The applicant will publish the BLM-approved notice once a week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the exploration license application are situated. The notification must invite the public to participate in the exploration under the license and contain the name and location of the BLM office in which the application is available for inspection.

(f) If any person wants to participate in the exploration program, the applicant and the BLM must receive written notice from that person within 30 calendar days after the end of the 30-day posting period. A person who wants to participate in the exploration program must:

(1) State in their notification that they are willing to share in the cost of the exploration on a pro-rata share basis; and

(2) Describe any modifications to the exploration program that the BLM should consider.

(g) To avoid duplication of exploration activities in an area, the BLM may:

(1) Require modification of the original exploration plan to accommodate

the exploration needs of those seeking to participate; or

(2) Notify those seeking to participate that they should file a separate application for an exploration license.

[73 FR 69475, Nov. 18, 2008, as amended at 75 FR 55683, Sept. 14, 2010]

§ 3910.32 Environmental analysis.

(a) Before the BLM will issue an exploration license, the BLM, in consultation with any affected surface management agency, will perform the appropriate NEPA analysis of the actions contemplated in the application.

(b) For each exploration license, the BLM will include terms and conditions needed to protect the environment and resource values of the area and to ensure reclamation of the lands disturbed by the exploration activities.

§ 3910.40 Exploration license requirements.

The licensee must comply with all applicable Federal, state, and local laws and regulations, the terms and conditions of the license, and the approved exploration plan. The operator or licensee must notify the BLM of any change of address or operator or licensee name.

§ 3910.41 Issuance, modification, relinquishment, and cancellation.

(a) The BLM may:

(1) Issue an exploration license; or

(2) Reject an application for an exploration license based on, but not limited to:

(i) The need for resource information;

(ii) The environmental analysis;

(iii) The completeness of the application; or

(iv) Any combination of these factors.

(b) An exploration license is effective on the date the BLM specifies, which is also the date when exploration activities may begin. An exploration license is valid for a period of up to 2 years after the effective date of the license or as specified in the license.

(c) The BLM-approved exploration plan will be attached and made a part of each exploration license (see subpart 3931 of part 3930 of this chapter).

(d) After consultation with the surface management agency, the BLM

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may approve modification of the exploration license proposed by the licensee in writing if geologic or other conditions warrant. The BLM will not add lands to the license once it has been issued.

(e) Subject to the continued obligation of the licensee and the surety to comply with the terms and conditions of the exploration license, the exploration plan, and these regulations, a licensee may relinquish an exploration license for any or all of the lands covered by it. A relinquishment must be filed in the BLM state office in which the original application was filed.

(f) The BLM may terminate an exploration license for noncompliance with its terms and conditions and part 3900, this part, and parts 3920 and 3930 of this chapter.

§ 3910.42 Limitations on exploration licenses.

(a) The issuance of an exploration license for an area will not preclude the BLM's approval of an exploration license or issuance of a Federal oil shale lease for the same lands.

(b) If an oil shale lease is issued for an area covered by an exploration license, the BLM will terminate the exploration license on the effective date of the lease for those lands that are common to both.

§ 3910.44 Collection and submission of data.

Upon the BLM's request, the licensee must provide copies of all data obtained under the exploration license in the format requested by the BLM. To the extent authorized by the Freedom of Information Act, the BLM will consider the data confidential and proprietary until the BLM determines that public access to the data will not damage the competitive position of the licensee or the lands involved have been leased, whichever comes first. The licensee must submit to the proper BLM office all data obtained under the exploration license.

§ 3910.50 Surface use.

Operations conducted under an exploration license must:

(a) Not unreasonably interfere with or endanger any other lawful activity on the same lands;

(b) Not damage any improvements on the lands; and

(c) Comply with all applicable Federal, state, and local laws and regulations.

PART 3920—OIL SHALE LEASING

Subpart 3921—Pre-Sale Activities

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3921.10 Special requirements related to land use planning.

3921.20 Compliance with the National Environmental Policy Act.

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Subpart 3925—Award of Lease

3925.10 Award of lease.

Subpart 3926—Conversion of Preference Right for Research, Development, and Demonstration (R, D and D) Leases

3926.10 Conversion of an R, D and D lease to a commercial lease.

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3927.10 Lease form.

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AUTHORITY: 30 U.S.C. 241(a), 42 U.S.C. 15927, 43 U.S.C. 1732(b) and 1740.